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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1947

No. 542

FRANK TOWNSEND, PETITIONER,

vs.

C. J. BURKE, WARDEN, EASTERN STATE PENITIARY, PHILADELPHIA, PENNSYLVANIA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE COMMONWEALTH OF PENNSYLVANIA

PETITION FOR CERTIORARI FILED AUGUST 1, 1947.

CERTIORARI GRANTED JANUARY 19, 1948.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1947

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**IN THE SUPREME COURT OF PENNSYLVANIA,
EASTERN DISTRICT**

Miscellaneous Docket No. 8

No. 469

COMMONWEALTH OF PENNSYLVANIA ex rel. FRANK TOWNSEND

vs.

C. J. BURKE, Warden, Eastern State Penitentiary,
Philadelphia, Pennsylvania

DOCKET ENTRIES

May 15, 1947. Petition for a writ of habeas corpus filed.
Frank Townsend.

May 16, 1947. Rule to show cause granted, returnable
May 23, 1947; answers to be filed by the Warden and the
District Attorney. The Clerk shall certify to this court
the record including the notes of testimony. Relator need
not be produced on the return day.

STEARNE, J.:

May 20, 1947. Acceptance of service of rule by the Dis-
trict Attorney filed.

May 21, 1947. Acceptance of service of rule by the
Warden filed.

May 21, 1947. Warden's answer filed.

May 22, 1947. District Attorney's Answer with Bills Nos.
696 to 701 May Sessions, 1946; No. 300 April Sessions 1945
and 691 May Sessions 1945, filed.

Rule discharged. 5-26-47.

Per Curiam (endorsed on the petition).

May 27, 1947. Record exit and sent to District Attorney,
Philadelphia County.

[fol. 3] January 23, 1948, the following order received
from the Clerk of the Supreme Court of the United States:

"On Consideration of the motion for leave to proceed
herein in forma pauperis and of the petition for writ of cer-

tiorari, it is ordered by this Court that the motion to proceed in forma pauperis be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted and the case is ordered transferred to the appellate docket.

January 19, 1948

January 30, 1948. Record received from the District Attorney, Philadelphia County.

[fol. 4] IN THE SUPREME COURT OF PENNSYLVANIA

[Title omitted]

PETITION FOR WRIT OF HABEAS CORPUS—Filed May 15, 1947

To the Honorable, The Justices of the Said Court:

Now to wit this 12th day of May A. D. 1947, comes Frank Townsend, your petitioner who prays your Honorable Court to issue a writ of Habeas Corpus based on the following facts which he your petitioner here respectfully presents:

1. That C. J. Burke is the duly appointed Warden of the Eastern State Penitentiary, 21st Street and Fairmount Avenue, Philadelphia, Pennsylvania.
2. That your petitioner is incarcerated in the Eastern State Penitentiary and has been undergoing imprisonment therein since June 5, 1945.
3. That Warden C. J. Burke currently holds your petitioner in custody on commitment of not less than 10 years and not more than 20 years covering Bill of Indictment #698; May sessions, 1945, charging Being Armed with Offensive Weapon with Intent to Rob, etc.
4. That this sentence of not less than 10 years nor more than 20 years covering Bill #698, May sessions, 1945, was imposed by the Honorable Harry S. McDevitt, Judge, sitting in the Court of Quarter Sessions of Philadelphia County, on June 5, 1945, at approximately 3:00 p. m.
5. That your petitioner was arrested at approximately 7:15 p. m. on June 3, 1945, at 21st and Wallace Streets,

Philadelphia, Pennsylvania, by officials of the Philadelphia [fol. 5] Police Department; that he was immediately taken to the 9th District Police Station at 20th and Buttonwood Streets, Philadelphia, Pennsylvania, and there held for a period of approximately one hour; that he was then taken to the 19 District Police Station at 12th and Pine Streets, Philadelphia, Pennsylvania, and there held for questioning for another hour; that he was then transported by police van to the 34th District Police Station at 15th Street and Snyder Avenue, Philadelphia, Pennsylvania, and there held until approximately 5:00 p. m., of June 4, 1945, when he was taken to the Fingerprinting Bureau in City Hall, and then immediately returned to the 34th District Police Station; that he was confined continuously and deprived of his right to contact anyone until approximately 2:00 a. m. of the morning of June 5, 1945, when he was allowed to see his wife and speak with her for a period not exceeding ten (10) minutes that seven (7) hours following the ten (10) minute interview with his wife, at approximately 9:00 a. m. the morning of June 5, 1945, he was taken to City Hall and placed in the Sheriff's cell room and shortly thereafter produced in Court and placed on trial. That, in brief, your petitioner was arrested, placed on trial, sentenced and delivered to the Eastern State Penitentiary all within a period of *less than* forty-eight (48) hours.

6. That your petitioner was never given a hearing before a City Magistrate and formally charged with the crimes referred to in Bills #696, 698, 699, and 701, May sessions, 1945.

7. That when he was arraigned in Court he was not advised of his right to engage counsel, nor was he instructed of the particular offenses covering Bills #696, 698, 699, and 701, May sessions, 1945.

8. That when sentence was imposed on Bill #698, it covered these three mentioned other bills, namely, Bills #696, 699, and 701, May sessions, 1945.

9. That from the very minute of his arrest to the very [fol. 6] minute of the imposition of sentence, at no time was your petitioner instructed to even the simplest and minutest degree of his constitutional rights provided under the 6th and the 14th Amendments of the Constitution of United States. *

10. That in Commonwealth ex rel. Shultz vs. Smith, Superior 206, 43, Miscellaneous Docket No. 5, citing Judge Keller's words as he extracted them from Com. v. Jester, 256 Pa. 441, 100 A. 993

" . . . Section 9 of Article I, of the Constitution of Pennsylvania provides that 'In all Criminal prosecutions the accused hath a right to be heard by himself and his counsel,' and 'to have compulsory process for obtaining witnesses in his favor'. Considering the serious nature of the charge against defendant, the short time intervening between his arrest and trial, and the absence of an opportunity to properly prepare and present a defense and procure the attendance of witness, if he had any, it cannot be said he was accorded the right to be heard by himself and counsel, in accordance with his constitutional rights. When defendant was brought from the county jail to the court room, two days after a true bill had been found against him, neither he, nor his counsel, had notice or knowledge, that he would be placed on trial on that day. . . . "

11. Your petitioner cites further extracts from the case herein mentioned, namely, Shultz v. Smith, as follows:

" . . . We follow this case in Comm. v. Richards, 11 Pa. Superior Court, 124, 129, 169 A. 464, and after citing extracts from the opinion of the court in Comm. v. Jester, supra, and from the Opinion of Mr. Justice Sutherland in Powell v. Alabama, 287 U. S. 45, which contained a reference to Hendryz v. State, 130 Ind. 265, 268, 269, 29 N.E. 1131 we said: 'The right to be represented by counsel is a fundamental right; going to the very basis of the administration of the criminal law, and places on the trial judge the onus to inform the defendant of his rights and to assist him in obtaining the benefits of those rights. The failure of the court to inform him of his rights amounts to a denial of the right. . . . The failure of the court to so inform him or to appoint counsel for him was fundamental error.' "

12. Your petitioner cites still further from the same case herein mentioned, namely, Shultz v. Smith, as follows:

" . . . A court's jurisdiction at the beginning of trial may be lost 'in the course of the proceedings' due

to failure to complete the court—as the Sixth Amendment requires—by providing counsel for an accused who is unable to obtain counsel, who has not intelligently waived this constitutional guaranty, and whose [fol. 7] life or liberty is at stake. If this requirement of the Sixth Amendment is not complied with, the court no longer has jurisdiction to proceed. The judgment of conviction pronounced by a court without jurisdiction is void, and one imprisoned thereunder may obtain release by habeas corpus. A judge of the United States—to whom a petition for habeas corpus is addressed—should be alert to examine the facts for himself when if true as alleged they make the trial absolutely void.

So here, the denial of counsel to one accused of such grave crimes as were involved in this case, is not only a denial of a constitutional right, but is a basic and fundamental error striking at the fairness and justice of the whole trial, which cannot always or even generally be reached in like circumstances by allowing him the right to appeal from the judgment, for how is the accused who has been deprived of counsel to know whether the trial was conducted fairly and with due regard to his legal rights, whether error was committed in the admission or rejection of evidence, whether the charge of the court was fair, and accurately and justly presented the case to the jury, or any of the matters ordinarily correctable by appeal and so vividly portrayed in the above quotation from the opinion in Powell v. Alabama, *supra*, cited in Johnson v. Zerbst, *supra*, pp. 462, 463? To deprive one accused of a grave crime of his constitutional right to be represented by counsel, and then hold that this basic and fundamental error cannot be taken advantage of except by an appeal from the judgment, to be taken within forty-five days by a prisoner who is not aware of his rights, is not versed in the law, has not attorney and no means to procure one, would be an injustice which our law does not sanction. Such a basic and fundamental error, which affects the justice and regularity of the whole trial, may be relieved against in this Commonwealth by writ of habeas corpus.

13. That your petitioner was at a disadvantage without the assistance of counsel is evidenced by the fact that one of the defendants with whom your petitioner was tried had an attorney and, in turn, received a much lighter sentence than the one your petitioner received.

14. Your petitioner holds and contends that the trial court committed a grave injustice in denying him the protection of the 6th and the 14th Amendments of the Federal Constitution; and that, going further, to put a citizen on trial in a court of law without the protection of these two basic and fundamental rights is too destructive of justice to be correctable by ordering that the abused party should be [fol. 8] remanded for a new trial, when the abused person has partly satisfied the sentence given at said trial.

15. Your petitioner is without remedy except by Writ to your Honorable Court..

Wherefore, your petitioner who is now confined in the Eastern State Penitentiary, having been deprived of his constitutional right to be heard by counsel at time of trial and having been without knowledge of this right at time of trial and having not been advised or instructed of this right at time of trial, prays your Honorable Court to issue a writ of Habeas Corpus directed to C. J. Burke, the Warden of Eastern State Penitentiary, Philadelphia, Pennsylvania, releasing your petitioner from further bondage on indictments and commitment covering Bills #698, 696, 699, and 701, May sessions, 1945.

And he will ever pray,

Frank Townsend, Petitioner.

[fols. 9-10] Duly sworn to by Frank Townsend. Jurat omitted in printing.

[fol. 11] IN THE SUPREME COURT OF PENNSYLVANIA

[Title omitted]

CERTIFICATE OF RULE—Filed May 20, 1947

May 15, 1947, Petition for writ of habeas corpus filed.
Frank Townsend.

May 16, 1947, Rule to show cause granted, returnable
May 23, 1947; answers to be filed by the Warden and the

District Attorney. The Clerk shall certify to this Court the record including the notes of testimony. Relator need not be produced on the return day.

Stearne, J.

Clerk's Certificate to foregoing paper omitted in printing.

[File endorsement omitted.]

[fol. 12-13] [Endorsed:] 5/17/47. Service Accepted.
John H. Maurer, District Attorney; Franklin E. Barr, First
Asst. District Attorney.

[fol. 14] Service hereby accepted: C. J. Burke, Warden.

[fol. 15] IN SUPREME COURT OF PENNSYLVANIA, EASTERN
DISTRICT

[Title omitted]

ANSWER OF C. J. BURKE, WARDEN EASTERN STATE PENITEN-
TIARY—Filed May 21, 1947

To the Honorable, the Judges of the Supreme Court:

C. J. Burke, Warden, Eastern State Penitentiary, Philadelphi-a, Penna. respectfully represents:

That, petitioner was sentenced from Philadelphia County, Pennsylvania by the Honorable Harry S. McDevitt after pleading guilty to a sur charge of Assault, Being Armed & Rob. to a term of ten (10) to twenty (20) years from June 5, 1945 on Bill #698 May 1945 Term of Court.

That, petitioner was further sentenced from Philadelphia County, Pennsylvania by the Honorable James Gay Gordon, Jr. after pleading guilty to a sur charge of attempted Burglary to a term of one (1) month to five (5) years after sentence on Bill #698 May 1945 Term of Court, on Bill #300 Apr 1945 Term of Court.

That, petitioner was still further sentenced from Philadelphia County, Pennsylvania by the Honorable James Gay Gordon, Jr. after pleading guilty to a sur charge of Carrying Concealed Deadly Weapon; Unlawfully carrying fire-

8.

arm without a license to a term of one (1) month after sentence on Bill #300 April 1945 Term of Court, on Bill #691 May 1945 Term of Court.

That, the questions raised in the petition are one of law, of which your relator has no knowledge and therefore makes no answer.

Respectfully, C. J. Burke, Warden.

[fol. 16] *Duly sworn to by C. J. Burke; jurat omitted in printing.*

[File endorsement omitted.]

[fol. 17]

EXHIBITS TO ANSWER

Hon. Harry S. McDevitt

COURT OF OYER AND TERMINER, GENERAL JAIL DELIVERY, AND QUARTER SESSIONS OF THE PEACE, FOR THE CITY AND COUNTY OF PHILADELPHIA, MAY TERM, 1945

No. 698

THE COMMONWEALTH OF PENNSYLVANIA

vs.

FRANK TOWNSEND

Sur Charge of Assault, Being Armed to Rob—Defendant Pleaded Guilty

I Certify, That on the 5 day of June A. D. 1945 the above-named defendant is adjudged by the Court to pay a fine of — to the Commonwealth, undergo imprisonment in separate or solitary confinement at labor, in the State Penitentiary for the Eastern District of Pennsylvania for a period of not less than Ten Years nor more than Twenty Years From 6-5-45 to be there fed, clothed, and in all respects treated as the law directs; that he pay the costs of prosecution, and stand committed until judgment be fully complied with.

In Witness Whereof, I have hereunto set my hand and the Seal of said Court, this 5 day of June, A. D. 1945.

S. W. Dolfman, Pro Clerk.

[fol. 18] COURT OF OYER AND TERMINER, GENERAL JAIL
DELIVERY, AND QUARTER SESSIONS OF THE PEACE, FOR THE
CITY AND COUNTY OF PHILADELPHIA, APRIL TERM, 1945

Hon. James Gay Gordon, Jr.

No. 300

THE COMMONWEALTH OF PENNSYLVANIA

vs.

FRANK TOWNSEND

Sur Charge of Attempted Burglary—Defendant Pleading
Guilty

I Certify, That on the 24th day of October, A. D. 1945
the above-named defendant is adjudged by the Court to
pay a fine of One Dollar to the Commonwealth, undergo im-
prisonment in separate or solitary confinement at labor,
in the State Penitentiary for the Eastern District of Penn-
sylvania for a period of not less than one (1) Month nor
more than Five (5) Years after sentence on Bill #698,
May, 1945, to be there fed, clothed, and in all respects treated
as the law directs; that he pay the costs of prosecution, and
stand committed until judgment be fully complied with.

In Witness Whereof, I have hereunto set my hand and
the Seal of said Court, this 24th day of October, A. D. 1945.

Horace W. Jolley, Pro Clerk.

[fol. 19-20] COURT OF OYER AND TERMINER, GENERAL JAIL
DELIVERY, AND QUARTER SESSIONS OF THE PEACE, FOR THE
CITY AND COUNTY OF PHILADELPHIA, MAY TERM, 1945

Hon. James Gay Gordon, Jr.

No. 691

THE COMMONWEALTH OF PENNSYLVANIA

vs.

FRANK TOWNSEND

Sur Charge of Carrying Concealed Deadly Weapon. Unlawfully Carrying Firearm Without a License—Defendant Pleaded Guilty

I Certify, That on the 24th day of October, A. D. 1945 the above-named defendant is adjudged by the Court to pay a fine of One Dollar to the Commonwealth, undergo imprisonment in separate or solitary confinement at labor, in the State Penitentiary for the Eastern District of Pennsylvania for a period of not less than One (1) Month after sentence on Bill #300, April, 1945, nor more than — to be there fed, clothed, and in all respects treated as the law directs; that he pay the costs of prosecution, and stand committed until judgment be fully complied with.

In Witness Whereof, I have hereunto set my hand and the Seal of said Court, this 24th day of October, A. D. 1945.

Horace W. Jolley, Pro Clerk.

[fol. 21] IN THE SUPREME COURT OF PENNSYLVANIA

[Title omitted]

ANSWER OF THE DISTRICT ATTORNEY—Filed May 22, 1947

To the Honorable, the Justices of the said Court:

The answer of John H. Maurer, District Attorney of Philadelphia County, respectfully represents:

The relator was charged, with other defendants, on three bills of indictment with assault with weapons with intent to rob, Nos. 696, 697 and 698 of May Sessions 1945, and in Bills Nos. 699, 700 and 701 with burglary with intent to com-

mit a felony, to wit: robbery. He plead guilty to Bills 696, 698, 699 and 701 and was acquitted on Bills 697 and 700. On these bills he was indicted as a fugitive and consequently did not have a hearing before a magistrate.

He was sentenced on only one of the four bills, to wit: 698, to ten to twenty years in the Eastern State Penitentiary to be computed from June 5, 1945, the date when he was arrested. This sentence was imposed by Judge McDevitt.

He was also indicted on Bill No. 300, April Sessions, 1945, with one Edward Keenan, on the charge of attempted burglary. The defendants plead not guilty, and later, on October 24, 1945, changed their pleas to guilty. The relator, [fol. 22] Townsend, was sentenced to not less than one month nor more than five years at the expiration of his sentence on Bill No. 698 of May Sessions, 1945.

The relator was also indicted on Bill No. 691 of May Sessions, 1945, charged with carrying concealed deadly weapon, to wit: a revolver, to which, after originally pleading not guilty, he changed his plea to guilty on October 24, 1945, and was sentenced to one month after expiration of sentence on Bill No. 300 of April Sessions, 1945; the last two sentences being imposed by Judge Gordon.

The relator plead guilty to all bills of indictment on which he was sentenced. It has been many times held that on a plea of guilty there is no requirement that counsel be assigned. The requirement that counsel be assigned applies only to cases of murder in the Commonwealth of Pennsylvania.

A copy of the relator's criminal record is attached hereto and made part hereof, which shows that he has been guilty of larceny, breaking and entering, burglary and holdup since September of 1930.

WHEREFORE your respondent prays that the petition be dismissed.

John H. Maurer, District Attorney, by Franklin E. Barr, First Assistant District Attorney.

[fol. 23] *Duly sworn to by Franklin E. Barr. Jurat omitted in printing.*

[File endorsement omitted.]

[fols. 24-27]

EXHIBIT TO ANSWER

Department of Public Safety

Bureau of Police

Philadelphia

Prisoner's Criminal Record

Name: Frank Townsend. White—Residence—1732 Wylie
St. Age: 29 in 1945.

Alias: Randolph W. Cain, Frank S. Townsend.

Name of Complainant and Address —.

Name and Number of Officer making arrest —.

Number of Photograph: 108485.

Criminal Vocation —.

Criminal Record (as far as known) —.

9-23-30 Larceny—Sent to House of Detention.

8-18-31 Entering to steal and larceny. \$1500 Court Mgst.
Coyle—Prisoner stated he was sent to House of
Det.—under age.

8- 6-33 Larceny of auto. Pld. nolle cont. adj. not guilty—
discharged—Judge James Barnett 8-15-33.

5- 5-34 Larceny—Pld. nolle cont. adj. guilty—1 to 2 yrs.
Co. Prison. Judge Raymond MacNeille 5-18-34.

6-14-36 Entering to steal and larceny—Pld. guilty—sent.
susp. pay costs. Judge H. A. Davis 6-25-36.

7-14-37 R. S. Goods. Discharged Mgst. Costello.

6- 3-38 Doylestown, Pa. Ent. to steal and larceny. Not
guilty discharged. Judge Leopold Glass 6-13-38.

4-6-45 Attempt burglary—Pld. guilty—1 month to 5 yrs.
after exp. sent. on Bill 698 (arr. 6-4-45). Judge
James Gordon, Jr., 10-24-45. Eastern Penty.

6- 4-45 Holdup and robbery—att. safe robbery—burglary
and larceny of auto—Viol. Witkin Act C.C.D.W.
etc. Indicted 5-1945 Bills 691, 696, 697, 698, 699,
700, 701. Pld. guilty Bills 696, 698, 699 and 701—10
to 20 yrs. East. Penty. Judge Harry McDevitt
6-5-45. 10-24-45 Not guilty bills 698, 700, Judge
Gordon. Pld. guilty Bill 691, sent 1 month to 5
yrs. East. Pen. after exp. sent. on B. 300 of 4-1945.

[fols. 28-30] Clerk's Certificate to foregoing transcript
and duplicate certificate omitted in printing.

[fol. 31] IN THE COURT OF QUARTER SESSIONS OF THE PEACE,
OF THE COUNTY OF PHILADELPHIA

BILL OF INDICTMENT

August Sessions, 1933.

COUNTY OF PHILADELPHIA, SS.:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations; do present, That Frank Townsend, late of the said County, minor on the seventh day of August in the year of our Lord, one thousand nine hundred and thirty-three, at the County aforesaid, and within the jurisdiction of this Court, certain property, to wit, one Chevrolet Roadster, of the value of three hundred dollars of the goods and chattels, moneys and property of D. H. Redmond then and there being found, feloniously did steal, take and carry away; contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present That the said Frank Townsend, afterwards to wit: On the same day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods and chattels, moneys and properties aforesaid by some ill-disposed person (to the Jurors aforesaid yet unknown) then lately before feloniously stolen, taken and carried away, feloniously, unjustly, and for the sake of wicked gain, did receive and have, the said Frank Townsend then and there well knowing the goods and chattels, moneys and properties last mentioned to have been feloniously stolen, taken and carried away; contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

Charles F. Kelley, District Attorney.

[fol. 32] [Endorsed:] No. 498. August Sessions, 1933.
Commonwealth vs. Frank Townsend, 1910 Mt. Vernon St.
Larceny of Automobile. Receiving Stolen Goods. Aug.
14, 1933. True Bill W. H. MacVaugh, Foreman. 8/15/33.

The Defendant being arraigned, plead Nolo Contendere

and adjudged not guilty. —————, Dist. Atty. sim. et issue.

Witnesses: Off. Hunt 3450. Jacobs 3036. 16t dist. D. H. Redmond, 247 S. 46th St.

Bail, \$500. C. Campbell, Magistrate.

[fol. 33] IN THE COURT OF QUARTER SESSIONS OF THE PEACE
OF THE COUNTY OF PHILADELPHIA

BILL OF INDICTMENT

August Sessions, 1933.

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Frank Townsend, late of the said County, Minor on the seventh day of August in the year of our Lord one thousand nine hundred and thirty-three, at the County aforesaid, and within the jurisdiction of this Court, did unlawfully make use of and operate a motor-vehicle, to wit, a certain *Cehrolet* Roadster automobile, which was then owned by D. H. Redmond without the knowledge and consent of the said D. H. Redmond, such owner of said automobile as aforesaid: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

Charles F. Kelley, District Attorney.

[fol. 34] [Endorsed:] No. 499. August Sessions, 1933. Commonwealth vs, Frank Townsend, 1910 Mt. Vernon St. Operating, etc., Automobile without consent of Owner. Aug. 14, 1933, True Bill. W. H. MacVaugh, Foreman, 8/15/33.

The Defendant being arraigned, plead Nolo Contendere and adjudged not guilty. —————, Dist. Atty. sim. et issue.

Witnesses: Off. Hunt 3450. Jacobs 3036. 16th dist. D. H. Redmond, 247 S. 46th St. Bail, \$500. C. Campbell, Magistrate.

[fol. 35] IN THE COURTS OF OYER AND TERMINER AND QUARTER SESSIONS OF THE PEACE IN AND FOR THE COUNTY OF PHILADELPHIA, MAY SESSIONS, 1934

No. 431

COMMONWEALTH

VS.

CHARLES TOWNSEND

PETITION OF CERTIFICATE AND ORDER DISCHARGING PETITIONER ON PAROLE

To the Honorable the Judges of the Said Court:

Charles Townsend respectfully represents that upon a bill of indictment charging Larceny he was sentenced on May 18th, 1934, to undergo a term of imprisonment of not less than one year nor more than two years Fr. 5/5/34 in the Philadelphia County Prison, by the Honorable, R. MacNeill, Presiding Judge; Petitioner represents that the minimum sentence will expire on 5th May, 1935, and respectfully prays that he be discharged on parole for the remainder of his sentence, according to provisions of the Act of Assembly in such case made and provided. And he will ever pray etc.

Charles Townsend, Petitioner,

It Is Hereby Certified to the Court that the conduct of Charles Townsend during the term of his imprisonment, has been satisfactory.

_____, President of the Board of Inspectors of the Philadelphia County Prison.

Decree

And Now, to wit: This — day of — A. D. —, in consideration of the above petition of certificate, it is ordered that defendant Charles Townsend, be discharged on parole for the remainder of his sentence, in custody of Ezekiel M. Hackney, Probation Officer of these Courts.

_____, Judge.

[vol. 36] IN THE COURTS OF OYER AND TERMINER AND QUARTER
SESSIONS OF THE PEACE IN AND FOR THE COUNTY OF PHILA-
DELPHIA

Term: May, 1934. Bill: 431. Sur Charge: Larceny

COMMONWEALTH

VS.

FRANK TOWNSEND

PETITION FOR PAROLE BY DIRECTION OF THE COURT—Filed
February 14, 1935

To the Honorable the Judges of the Said Court:

The petition of E. M. Hackney, Chief Parole Officer,
Quarter Sessions Courts of Philadelphia County respectfully represents:

That the defendant, indicted as above, pleaded Nolo Contendere, and on May 18, 1934 he was sentenced to a term of not less than 1 year nor more than two years in the county prison, to date from May 9, 1934, by Honorable Raymond MacNeille, Presiding Judge.

Your petitioner further represents that the defendant has been arrested on three previous occasions but has never before been sentenced to prison.

Your petitioner further represents that the defendant has now been confined in the said county prison for a period of more than 9 months, he has received a salutary lesson, and in view of the interest of those close to him, including the Big Brothers Association, all of whom assert that they will devote every effort to the end that he will not engage in unlawful conduct again, it is believed that his parole may safely be granted at this time. Copy of investigation and letter of Big Brothers attached hereto.

Your petitioner therefore prays your honorable court that the defendant be discharged on parole in accordance with the provisions of the Act of Assembly in such cases made and provided.

And he will ever pray etc.

E. M. Hackney, Petitioner.

[File endorsement omitted.]

[fol. 37]

DECREE

And Now, to wit: This 25th day of February, 1935, after due consideration of the facts set forth in the foregoing petition It Is Ordered And Decreed that the defendant, Frank Townsend be released from the said County Prison and discharged on parole for the remainder of the sentence imposed by the court.

This order is made in accordance with the provisions of the Act of Assembly approved June 19, 1911, amended May 11, 1923.

By the Court, — — —, Judge.

[fol. 38]

EXHIBIT TO PETITION

Member of Welfare Federation

The Big Brother Association

Established 1915

In Merger With Evening Home and Library Ass'n (Established 1886) and Lincoln Educational Institution (Established 1866)

The Boy Center, 25 South Van Pelt Street

Between 21st and 22d Sts., Above Chestnut St.

Philadelphia, February 6, 1935.

Mr. E. M. Hackney, Probation Department, Quarter Sessions Court, City Hall, Phila., Pa.

MY DEAR MR. HACKNEY:

In pursuance of Mr. Teter's conversation with you, I am writing to ask if you will be good enough to prepare a petition, if it meets with your approval, in the case of Frank Townsend, an inmate of the Philadelphia County Prison—#C-2040-1058, who, we feel, from our former experience with him and an investigation, will make good if released.

We recently wrote to Judge MacNeille concerning this young man and sent him a report, of which the enclosed is a copy.

Many thanks for your co-operation.

Sincerely yours, Geo. W. Casey, Secretary.

GWC:S.

[fols. 39-40] This boy was referred to us on 11-3-30 by Judge Brown of Juvenile Court. He was charged with larceny of a coat from an automobile. We were unable to establish a very good contact, and on 12-22-30 he was committed to the Labor Bureau from Juvenile Court for farm placement. On 8-25-31 he was committed to Glen Mills for larceny and referred to us for supervision when paroled.

He is one of seven children all of whom are away from home, with the exception of Raymond. Mother is dead. His father Henry, and stepmother Matilda, live at 1902 Mt. Vernon St.

While under our supervision the boy at first was very sullen and uncooperative. However, when he realized our interest in him was friendly his attitude changed entirely. He became very friendly and responsive. There has always been an unfortunate home condition. The father had very little control over any of the children, and no doubt his harsh treatment and lack of sympathy caused everyone to leave home.

Up until the time of commitment boy made an unusually fine effort to keep straight and secure work, and it was only following an argument in the home, which resulted in his father putting him out, that he subsequently got into trouble. He went to live with a family [redacted] the name of Kane. He became infatuated with the daughter whom he married. It was while unemployed that he met up with his brother Charles, who no doubt influenced him to steal. Charles was previously arrested on 10-8-30 for larceny of groceries from a chain store truck. He was sent to the House of Correction by Judge Lewis.

Both boys were committed on 5-18-34 to the Phila. County Prison for the term of one year charged with larceny of merchandise from in front of a chain store. Since being in the Institution Frank became the father of a baby girl. His wife, who is quite fond of him, is anxious for him to return home. His father-in-law, Mr. Kane, is likewise

interested in having his son-in-law return to his home, and he feels he will be able to secure work for him. Mr. Kane is employed steadily and he is quite willing to support the boy, his wife and baby until such a time as he can get on his own feet. The Big Brother Association would be more than happy to assist the boy in helping him secure work and supervise him, in cooperation with the Parole Department.

Boy has communicated regularly with our office, and there is no doubt that if given an opportunity he would do what is right.

NST:MH.

[fol. 41] IN THE COURT OF QUARTER SESSIONS OF THE PEACE,
OF THE COUNTY OF PHILADELPHIA, MAY SESSIONS, 1934

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, SS:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, that Frank Townsend, late of the said County, minor, and Charles Townsend alias Randolph Cain, late of the said County, yeoman on the ninth day of May in the year of our Lord one thousand nine hundred thirty-four, at the County aforesaid, and within the jurisdiction of this Court, certain property, to wit, one bushel of potatoes, together of the value of two dollars and seventy-four cents; fifteen pounds of cherries, together of the value of three dollars and sixty-eight cents; one crate of strawberries, of the value of two dollars and forty cents; and twenty-eight pounds of peas, of the value of two dollars and sixty-six cents; altogether of the value of eleven dollars and forty-eight cents of the goods and chattels, money and property of a certain body corporate named The Great Atlantic and Pacific Tea Company then and there being found, feloniously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present that the said Frank Townsend and Charles Townsend alias Randolph Cain afterwards to wit: On the same day and year aforesaid, at

the County aforesaid, and within the jurisdiction of this Court, the goods and chattels, moneys and properties aforesaid by some ill-disposed person (to the Jurors aforesaid yet unknown) then lately before feloniously stolen, taken and carried away, feloniously, unjustly, and for the sake of wicked gain, did receive and have, the said Frank Townsend and Charles Townsend alias Randolph Cain then and there well knowing the goods and chattels, moneys and properties last mentioned to have been feloniously stolen, taken and carried away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

Charles F. Kelley, District Attorney.

[fol. 42] Witnesses: Det. Schenk, American Stores Co., 31st & Master; Det. Wm. McDonough, A & P Stores, 32d & Chestnut Sts.; John Bowers, 2154 N. Marston St.; R. W. Whitman, 2366 W. Sedgley Ave. Bail \$500 ea C. Campbell, Magistrate.

[Endorsed:] No. 431. May Sessions, 1934. Commonwealth vs. Frank Townsend, 815 N. 17th St., Charles Townsend alias Randolph Cain, 1909 Mt. Vernon St. Larceny—Receiving Stolen Goods. 5-16 1934. True Bill. Charles F. —, Foreman. 5/18/34. The Defendants being arraigned, plead Nolo Contendere. Verdict, Eo Die. Sentence, One to 2 years each C. P. from Commit. By the Court, —, J.

[fols. 43-44] IN THE COURT OF OYER AND TERMINER AND QUARTER SESSIONS OF THE PEACE FOR THE COUNTY OF PHILADELPHIA, JUNE SESSIONS, 1936

No. 1036

COMMONWEALTH

vs.

CHARLES A. ROBINSON, JR., FRANK TOWNSEND, CHARLES TOWNSEND

Enter my appearance for the above named defendant.

Thomas E. Cogan, Defender.

To Clerk, Q. S. Phila. County.

[fol. 45] IN THE COURT OF QUARTER SESSIONS OF THE PEACE,
OF THE COUNTY OF PHILADELPHIA, JUNE SESSIONS, 1936

BILL OF INDICTMENT.

COUNTY OF PHILADELPHIA, SS:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, that Charles A. Robinson, Junior, late of the said County, yeoman, Frank Townsend late of the said County, yeoman, and Charles Townsend late of the said County, yeoman, on the thirteenth day of June in the year of our Lord one thousand nine hundred and thirty-six at the County aforesaid, and within the jurisdiction of this Court, feloniously, wilfully and maliciously did enter the building and taproom, there situate of Samuel Kaplan, with an intent, the goods and chattels, moneys and property in the said building and taproom; then and there being found, feloniously to steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present that the said Charles A. Robinson Junior, Frank Townsend and Charles Townsend afterwards, to wit: on the same day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, certain property, to wit, seven bottles of whiskey, some part full and some full, altogether, of the value of ten dollars, of the goods and chattels, moneys and property of Samuel Kaplan, then and there being found, then and there feloniously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said Charles A. Robinson, Junior, Frank Townsend and Charles Townsend afterwards, to wit: On the same day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods and chattels, moneys and properties aforesaid, by some ill-disposed person (to the Jurors aforesaid

yet unknown) then lately before feloniously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have, the said Charles A. Robinson, Junior, Frank Townsend and Charles Townsend, then and there well knowing the goods and chattels, moneys and properties last mentioned, to have been feloniously stolen, taken and carried away contrary to the form of the Act of General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

Charles F. Kelley, District Attorney.

[fol. 46] Witnesses: S. Kaplan, 429 E. Sharpnack St., Off. McKenna #4318, Gormley #1481. 8th Dist. Bail, \$1500 ea. C. Coyle, Magistrate.

[Endorsed!] No. 1036. June Sessions, 1936. Commonwealth vs. Charles A. Robinson, Junior, 1521 N. Myrtlewood St., Frank Townsend, 2017 Green St., Charles Townsend, 1909 Mt. Vernon. 1st Count—Entering with intent to steal. 2nd Count—Larceny. 3rd Count—Receiving Stolen Goods. June 23rd, 1936. Jas. Clark, Foreman. 6/25/36. The Defendants being arraigned, plead Guilty. Verdict Eo Die. Sentence, Susp. and defts. discharged to Pay Costs. By the Court, H. H. D., J.

[fol. 47]

NOTICE TO WITNESS

Room No. 650, 6th Floor, City Hall

Philadelphia, June 10, 1938.

COMMONWEALTH

vs.

FRANK TOWNSEND et al.,

Sur Charge Larceny etc.

To Wm. Weller, 1742 Germantown Ave.

You are required to appear at the Court of Quarter Sessions of the Peace as a Witness in the above, on Monday

June 13, 1938 Morning, the — inst., at 10 o'clock precisely and without fail. County Court House, Broad and Market Sts.

— — —, Officer of the Court.

Bring this Notice with you.

Personal Service on Wm. Weller. June 11-38. R. F. —

[fol. 48] MUNICIPAL COURT OF PHILADELPHIA, CRIMINAL DIVISION, SESSIONS: JUNE, 1938

Number 314

COMMONWEALTH

vs.

RAYMOND TOWNSEND

Sur Charge: Entering to Steal; Larceny; Receiving Stolen Goods

DECREE

And now, to wit: This twenty-first day of June, 1939 after due inquiry it appearing to the Court that one Raymond Townsend was indicted in the Municipal Court Criminal Division in and for the County of Philadelphia as of June Sessions, 1938, No. 314; sur charge: Entering to Steal; Larceny; Receiving Stolen Goods, and being thereupon convicted, was placed on probation for a period of five years by the Honorable Leopold C. Glass on the thirteenth day of June, 1938.

It further appearing to the Court that on the fifteenth day of June, 1939 before the expiration of the said probation, the said Raymond Townsend was sentenced in the Court of Quarter Sessions of Philadelphia County on Bill No. 372, June Sessions, 1939, of the Crime of Attempted Robbery, etc., and pleaded Guilty to Bills of Indictment No. 369, #370, #371, #372, #373, #374, #375, June Sessions, 1939, committed during the aforesaid Probation.

It is now ordered and decreed that the said probation be

and is hereby revoked and the defendant, Raymond Townsend is now sentenced to a term of Not less than 2 years nor more than 4 years in the Eastern State Penitentiary to run concurrently with sentence imposed on Bill of Indictment No. 372, June Sessions, 1939.

Leopold C. Glass, Judge. (Seal.)

[fol. 49] IN THE COURT OF QUARTER SESSIONS OF THE PEACE,
COUNTY OF PHILADELPHIA

ORDER FOR APPEARANCE

June Sessions, 1938.
No. 314

COMMONWEALTH

vs.

FRANK & RAYMOND TOWNSEND

To the Clerk of Quarter Sessions Court:

Enter my appearance for Defendant in the above entitled case.

Charles W. Sweeney, Attorney for Defendant, 2518 Lewis Tower.

[fol. 50] IN THE COURT OF QUARTER SESSIONS OF THE PEACE,
OF THE COUNTY OF PHILADELPHIA

BILL OF INDICTMENT

June Sessions, 1938.

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Frank Townsend, late of the said County, yeoman, and Raymond Townsend, late of the said County, minor, on the eighth day of June, in the year of our Lord one thousand nine hundred and thirty-eight at the County aforesaid, and within the jurisdiction of this Court, feloniously, wilfully

and maliciously did enter the building and store there situated of William Weller with an intent, the goods and chattels, moneys and property in the said building and store then and there being found, feloniously to steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Frank Townsend and Raymond Townsend afterwards, to wit: on the same day and year aforesaid, at the County aforesaid; and within the jurisdiction of this Court, certain property, to wit, nine hundred and fifty pounds of white lead, together of the value of eighty-six dollars; eighty-two paint brushes, together of the value of sixty dollars; two gallons of Japan dryer, together of the value of three dollars; one and one half gallons of varnish, together of the value of five dollars; and five glass cutters, together of the value of one dollar; altogether of the value of one hundred and fifty-five dollars, of the goods and chattels, moneys and property of William Weller then and there being found, then and there feloniously did steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Frank Townsend and Raymond Townsend afterwards, to wit: On the same day and year aforesaid, at the County aforesaid, and within the jurisdiction of this Court, the goods and chattels, moneys and properties aforesaid, by some ill-disposed person (to the Jurors aforesaid yet unknown) then lately before feloniously stolen, taken and carried away, feloniously, unjustly and for the sake of wicked gain did receive and have, the said Frank Townsend and Raymond Townsend then and there well knowing the goods and chattels, moneys and properties last mentioned to have been feloniously stolen, taken and carried away: contrary to the form of the Act of General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

Charles F. Kelley, District Attorney.

[fol. 51]

Magistrate's Testimony

Witnesses: William Weller, 1742 Germantown Ave. Det. Goldstein, 48; Det. Doolan, 25; Det. Hicks, 790; 9th Dist. Bail, \$1000 each. Medway, Magistrate.

[Endorsed:] No. 314, June Sessions, 1938. Commonwealth vs. Frank Townsend, Raymond Townsend, 1620 Green St. 1st Count—Entering with intent to steal. 2nd Count—Larceny. 3rd Count—Receiving Stolen Goods. June 10, 1938. _____, Foreman. 6/13/38. The defendants being arraigned, plead Not Guilty as to Frank, Guilty as to Raymond. Dist. Atty. sim. et issue. 6/13/38. Verdict, Not Guilty as to Frank. 6/13/38. Sentence, as to Raymond Probation Five (5) years.

By the Court, Glass, Judge.

[fol. 52] **COURT OF QUARTER SESSIONS OF THE PEACE FOR THE CITY AND COUNTY OF PHILADELPHIA**

300 April Term, 1945.

THE COMMONWEALTH OF PENNSYLVANIA

versus

EDWARD KEENAN

Sur Charge of Att. Burglary

I do certify, That Harry Cohen of 244 W. Penn St., became Bail for the Defendant in the above Case, in the sum of Twenty-five Hundred (\$2500) dollars, by recognizance taken before Clerk Hahn on the 13 day of April, 1945. Conditioned for the appearance of said Defendant at the present term Court of Quarter Sessions, to answer said charge, as appears by the record of the said recognizance filed in my office at Philadelphia.

Witness my hand and seal of said Court, the 5 day of June in the year of our Lord one thousand nine hundred, and 45.

Frank W. Hahn, Clerk. (Seal.)

[fol. 53] CITY OF PHILADELPHIA; ss:

I, Harry Cohen of 244 W. Penn St., bound in the within recognizance, a Bail of the said Edward Keenan, do hereby authorize, empower and depute for me and in my name, to take and arrest the said Edward Keenan and keep and detain him in custody, that he may be committed to the Jail of said County to answer the aforesaid Charge against him, or to be otherwise dealt with according to law. And I do hereby give to the said — — all power and authority to act and proceed in the premises, that I myself have and possess, and might, or could use and exercise therein, in every manner and form of law.

In witness whereof, I have hereunto set my hand and seal, at Philadelphia aforesaid, the 5 day of June, 1945.

Harry Cohen. (L.S.)

[fol. 54] Room 443, Fri; May 25. Listed for Trial.

COURT OF QUARTER SESSIONS OF THE PEACE FOR THE CITY AND
COUNTY OF PHILADELPHIA

April 300 Term, 1945.

THE COMMONWEALTH OF PENNSYLVANIA

versus

FRANK TOWNSEND

Sur Charge of Attempted Burglary

I do certify, That Harry Cohen of 244 W. Penn St., became Bail for the Defendant in the above Case, in the sum of Twenty-five Hundred (\$2500) dollars, by recognizance taken before Clerk of Court on the 13 day of April, 1945. Conditioned for the appearance of said Defendant at the present term Court of Quarter Sessions, to answer said charge, as appears by the record of the said recognizance filed in my office at Philadelphia.

Witness my hand and seal of said Court, the 19 day of May in the year of our Lord, one thousand nine hundred and 45.

Frank W. Hahn, Clerk. (Seal.)

[fol. 55] CITY OF PHILADELPHIA, ss:

I, Harry Cohen of 244 W. Penn. St. bound in the within recognizance, a Bail of the said Frank Townsend do hereby authorize, empower and depute for me and in my name, to take and arrest the said Frank Townsend and keep and detain him in custody, that he may be committed to the Jail of said County to answer the aforesaid Charge against him, or to be otherwise dealt with according to law. And I do hereby give to the said — all power and authority to act and proceed in the premises, that I myself have and possess, and might, or could use and exercise therein, in every manner and form of law.

In Witness Whereof, I have hereunto set my hand and seal, at Philadelphia aforesaid, the 19 day of May, 1945.

Harry Cohen, L. S.

[fol. 56] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE COUNTY OF PHILADELPHIA, APRIL SESSIONS, 1945

BILL OF INDICTMENT.

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Keenan late of the said County, yeoman, and Frank Townsend late of the said county, yeoman, on the sixth day of April, in the year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the building and restaurant then and there situate of Edward McManus unlawfully, wilfully, maliciously, feloniously and burglariously did — enter with intent to commit a felony, to wit, with intent the goods, chattels, moneys and property of the said Edward McManus in said building and restaurant then and there being, feloniously and burglariously to steal, take and carry away; contrary to the form of the Act of the General Assembly in such case made and provided; and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 57]

Magistrate's Testimony

Witnesses: St. Sgt. Donohue 7. Ploszaj 2412. Allebach 3567. Det. Donahue 165. 2nd Det. Div., Edward McManus, 1414 N 8th St.

Scene: NE 24th & Fairmont. Bail \$2500 ea. Harry Cohen (for Both) 244 W Penn St. Townsend, by Hahn. Schwartz, Magistrate.

[Endorsed:] No. 300. April Sessions, 1945. Commonwealth vs. Edward Keenan, 722 N 22d St.; Frank Townsend, 1732 Wylie St. Attempted. Burglary. Apr. 13, 1945. True Bill. Roy O. Demming, Foreman. 6/15/45. The Defendants being arraigned, plead not guilty. 10/24/45. Defts. plead guilty.

Apr. 17, 1945, 453. May 25, 1945, 443. Jun. 15, 1945, 453. Oct. 24, 1945, 653. May 5, 1945, Recog. of Deft. and Surety forfeited. Edward Sessa, Pro. Clerk.

10/24/45.

Sentence, not less than (1) month nor more than (5) years at separate and solitary confinement in the Eastern State Penitentiary, to be computed from after any sentence now serving from Philadelphia and Montgomery Counties as to Deft. "Keenan."

By the Court, E. G. Judge.

10/24/45.

Sentence, not less than (1) month nor more than (5) years at separate and solitary confinement in the Eastern State Penitentiary, to be computed from after sentence on Bill #698. May, 1945, as to Deft. Townsend.

By the Court, E. G. Judge.

[fol. 58] IN THE COURT OF QUARTER SESSIONS OF THE PEACE
OF THE COUNTY OF PHILADELPHIA

BILL OF INDICTMENT

May Sessions, 1945.

COUNTY OF PHILADELPHIA, SS.:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Frank Townsend, late of the said County, yeoman, on the twenty-ninth day of April, in the year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of this Court, did unlawfully carry concealed upon his person a certain deadly weapon, commonly called a revolver, with the intent therewith unlawfully and maliciously to do injury to some other person to the Grand Inquest aforesaid as yet unknown: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Frank Townsend, on the said twenty-ninth day of April, in the year of our Lord one thousand nine hundred and forty-five, at the county aforesaid, and within the jurisdiction of this Court, did unlawfully carry, in a place not his abode nor his fixed place of business, to wit, concealed on or about the person of him the said Frank Townsend, a firearm, to wit, a revolver with a barrel less than twelve inches, without a license therefor as required by law; said firearm not being an antique unsuitable for use and not possessed as a curiosity or ornament: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 59] [Endorsed] No. 5691. May Sessions, 1945. Commonwealth vs. Frank Townsend. Carrying concealed deadly weapon. Unlawfully carrying firearm without a license. June 1st, 1945. True Bill Joseph Nuhall, Foreman. 6/5/45. The Defendant being arraigned, plead not guilty. 10/24/45 Deft. plead guilty. Sentence 10/24/45 One Month E. P. after sentence on bill #300. April 1945. — — —, Judge.

June 5, 1945, 453. June 15, 1945, 453. October 24, 1945,
653.

Witnesses: Det. Lane, Lear, Kelly, Hicks, 142, Velma
Mobley, Yellow Cab Co.

Scene: 323 S. 23rd St. Bail Fugitive. Hon. Gerald Flood,
Judge.

[fol. 60] IN THE COURT OF OYER AND TERMINER AND GENERAL
JAIL DELIVERY OF THE COUNTY OF PHILADELPHIA

BILL OF INDICTMENT

May Sessions, 1945.

COUNTY OF PHILADELPHIA, SS.:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Joseph Kopitsko, Edward Keenan and Charles Cain and Frank Townsend, late of the said County, yeomen, on the twenty-fourth day of March, in the year of our Lord one thousand nine hundred and forty-five, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., being armed with an offensive weapon and with an offensive instrument in and upon one Wade Mitchell feloniously did make an assault, with intent to rob the said Wade Mitchell and the goods and chattels, moneys and property of the said Wade Mitchell, then and there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Joseph Kopitsko, Edward Keenan, Charles Cain and Frank Townsend on the said twenty-fourth day of March, in the said year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., together with divers other persons whose names are to this Grand Inquest as yet unknown, in and upon the said Wade Mitchell feloniously did make an assault, with an intent feloniously and violently to rob the said Wade Mitchell and the goods and chattels moneys and property of the said Wade Mitchell then and

there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania. [fol. 61] And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Joseph Kopitsko, Edward Keenan, Charles Cain and Frank Townsend, on the said twenty-fourth day of March, in the said year of our Lord one thousand nine hundred and forty-five, at the county aforesaid, and within the jurisdiction of this Court, with force and arms, etc., being armed with an offensive weapon and with an offensive instrument, in and upon Wade Mitchell feloniously did make an assault, and the said Wade Mitchell in bodily fear and danger of his life then and there feloniously did put, and in the presence and against the will of the said Wade Mitchell certain moneys and property, to wit, the sum of three thousand dollars, in lawful money of the United States, of the value of three thousand dollars, of the moneys and property of said Wade Mitchell, unlawfully did and there attempt to feloniously rob, seize, steal, take and carry away; and a certain Buick sedan automobile, of the value of seventeen hundred dollars, of the goods and chattels, moneys and property of the said Wade Mitchell then and there feloniously and violently did rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Joseph Kopitsko, Edward Keenan, Charles Cain and Frank Townsend on the twenty-fourth day of March, in the year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of the Court aforesaid with force and arms, etc., together with divers other persons, whose names are to the said Grand Inquest as yet unknown, in and upon the said Wade Mitchell feloniously did make an assault, and the said Wade Mitchell in bodily fear and danger of his life, then and there feloniously did put, and in the presence and against the will of the said Wade Mitchell, said sum of three thousand dollars, in lawful money of the United States, of the property of said Wade Mitchell did unlawfully attempt to feloniously

ously rob, seize, steal, take and carry away; and said Buick sedan automobile of the value of seventeen hundred dollars, of the goods and chattels, moneys and property of the said Wade Mitchell then and then feloniously and violently did rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Joseph Kopitsko, Edward Keenan, Charles Cain and Frank Townsend on the twenty-fourth day of March, in the year of our Lord one thousand nine hundred and forty-five, at the county aforesaid, and within the jurisdiction of the Court aforesaid, with force and arms, etc., in and upon the said Wade Mitchell did make an assault and the said Wade Mitchell in bodily fear and danger of his life, did put, and in the presence and against the will of said Wade Mitchell the goods and chattels, moneys and property in the third count of this indictment set forth, of the goods and chattels, moneys and property of the said Wade Mitchell then and there feloniously and violently did rob, seize, steal, take and carry away, and that they the said Joseph Kopitsko, Edward Keenan, Charles Cain and Frank Townsend immediately before, and at the same time of and immediately after, the commission of the aforesaid felony and robbery, the said Wade Mitchell feloniously did beat, strike, ill use, and do other violence to: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid do further present, That the above named Defendants on the day and year aforesaid, at the County aforesaid, did commit and attempt to commit a crime of violence, to wit, the hereinabove described offense of attempted robbery and robbery when and while armed with a firearm, contrary to the provisions of Sec. 628, Sub. Sec. b of an Act of Assembly of said Commonwealth approved the 24th day of June, A. D. 1939, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 63] Witnesses: Wade Mitchell, 758 S. 15th St. Det. Lane 83, Lear, Kelly, Hicks 142, Rocco Antonio, 1029 S. 9th St., Jos. Rizzo, C. P.

Scene: 1018 E. Passyunk ave. Townsénd—fugitive—rest—without bail, c. Hon. Gerald Flood, Judge and Costello, Magistrate.

[Endorsed:] No. 696. May Sessions, 1945. Commonwealth vs. Joseph Kopitsko, Edward Keenan, Charles Cain and Frank Townsend.

1st Count, Assault—Being Armed with an offensive/ weapon with intent to rob.

2nd Count, Assault.—Together with other persons, with intent to rob.

3rd Count, Robbery—Being armed with an offensive weapon.

4th Count, Robbery—Together with other persons.

5th Count, Robbery—And at commission thereof, beating, striking, and ill-using.

6th Count, Committing a crime of violence while being armed with a firearm.

June 1st, 1945. True Bill. Joseph Nuhall, Foreman. 6/5/45. The Defendants being arraigned, plead guilty. Eo Die. As to Cain (see inside).

Sentence, not less than (10) years nor more than (20) years at separate and solitary confinement in the Eastern State Penitentiary, to be computed from 5-24-45. By the Court. See bill 698 as to Keenan & Townsend. S. ———, Judge.

6/15/45, as to Kopitsko. Sentence, not less than 2½ years nor more than (5) years, at separate and solitary confinement in the Eastern State Penitentiary, to begin ——— parole on sentence imp. 9/27/40. By the Court. ———, Judge. On Bill #29 June 1940 of Lehigh County.

June 5, 1945, 453. June 15, 1945, 453.

[fol. 64] IN THE COURT OF OYER AND TERMINER AND GENERAL
JAIL DELIVERY OF THE COUNTY OF PHILADELPHIA

BILL OF INDICTMENT

May Sessions, 1945.

COUNTY OF PHILADELPHIA, SS.:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Keenan, Orville Foulke and Frank Townsend, late of the said County, yeomen, on the thirtieth day of March, in the year of our Lord one thousand nine hundred and forty-five, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., being armed with an offensive weapon and with an offensive instrument in and upon one James Renfroein feloniously did make an assault, with intent to rob the said James Renfroein and the goods and chattels, moneys and property of the said James Renfroein then and there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Keenan, Orville Foulke and Frank Townsend on the said thirtieth day of March, in the said year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., together with divers other persons whose names are to this Grand Inquest as yet unknown, in and upon the said James Renfroein feloniously did make an assault, with an intent feloniously and violently to rob the said James Renfroein and the goods and chattels moneys and property of the said James Renfroein then and there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 65] And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Keenan, Orville Foulke and Frank Town-

send, on the said thirtieth day of March, in the said year of our Lord one thousand nine hundred and forty-five, at the county aforesaid, and within the jurisdiction of this Court, with force and arms, etc., being armed with an offensive weapon and with an offensive instrument, in and upon James Renfroein feloniously did make an assault, and the said James Renfroein in bodily fear and danger of his life then and there feloniously did put, and in the presence of and against the will of the said James Renfroein certain moneys and property, to wit, a certain Buick sedan automobile, of the value of fifteen hundred dollars, of the property of one David E. Keiser; and from the person and against the will of the said James Renfroein, certain property, to wit, one wallet, of the value of one dollar and the sum of five dollars, in lawful money of the United States, together of the value of six dollars, of the goods and chattels, moneys and property of the said James Renfroein, then and there feloniously and violently did rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Keenan, Orville Foulke and Frank Townsend, on the thirtieth day of March, in the year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of the Court aforesaid with force and arms, etc., together with divers other persons, whose names are to the said Grand Inquest as yet unknown, in and upon the said James Renfroein feloniously did make, an assault, and the said James Renfroein in bodily fear and danger of his life, then and there feloniously did put, and [fol. 66] in the presence and against the will of said James Renfroein, a Buick sedan automobile, of the value of fifteen hundred dollars, of the property of one David E. Keiser; and from the person and against the will of the said James Renfroein, one wallet, of the value of one dollar and the sum of five dollars, in lawful money of the United States, together of the value of six dollars, of the goods and chattels, moneys and property of the said James Renfroein, then and there feloniously and violently did rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and

against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid do further present, That the above named Defendant on the day and year aforesaid, at the County aforesaid, did commit and attempt to commit a crime of violence, to wit, the hereinabove described offense of Robbery, when and while armed with a firearm, contrary to the provisions of Sec: 628, Sub. Sec. b of an Act of Assembly of said Commonwealth approved the 24th day of June, A. D. 1939, and against the peace and dignity of the Commonwealth of Pennsylvania.

John M. Maurer, District Attorney.

[fol. 67] Witnesses: James Renfroein, 165 N. Edgewood St., Benj. Wang, 2109 N. Redfield St. - David E. Keiser, 2601 Parkway. Det. Lane 83, Lear 13, Kelly 198, Hicks, 142.

Scene: NE 27th & Brown st. Hon. Gerald Flood, Judge and Costello, Magistrate.

[Endorsed:] No. 697. May Sessions, 1945. Commonwealth vs. Edward Keenan, Orville Foulke, and Frank Townsend.

1st Count, Assault—Being Armed with an offensive weapon with intent to rob.

2nd Count, Assault—Together with other persons, with intent to rob.

3rd Count, Robbery—Being armed with an offensive weapon.

4th Count, Robbery—Together with other persons.

5th Count—Committing a crime of violence while being armed with a firearm.

June 1st, 1945. True Bill. Joseph Nuhall, Foreman.
6/5/45. The Defendants being arraigned, plead not guilty.
_____, Dist. Attl. sim. et issue. 10/24/45. Verdict Not guilty (3) Defts. County pay costs.

June 5, 1945, 453. June 15, 1945, 453. October 24, 1945, 653.

[fol. 68] IN THE COURT OF OYER AND TERMINER AND GENERAL
JAIL DELIVERY OF THE COUNTY OF PHILADELPHIA—MAY
SESSIONS, 1945

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Keenan, Orville Foulke and Frank Townsend, late of the said County, yeomen, on the twenty-ninth day of April, in the year of our Lord one thousand nine hundred and forty-five, at the county aforesaid, and within the jurisdiction of this court, with force and arms, etc., being armed with an offensive weapon and with an offensive instrument in and upon one Velma Mobley feloniously did make an assault, with intent to rob the said Velma Mobley and the goods and chattels, moneys and property of body corporate named and called the Yellow Cab Company, then and there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Keenan, Orville Foulke and Frank Townsend, on the said twenty-ninth day of April, in the said year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., together with divers other persons whose names are to this Grand Inquest as yet unknown, in and upon the said Velma Mobley feloniously did make an assault, with an intent feloniously and violently to rob the said Velma Mobley and the goods and chattels, moneys and property of the said body corporate named and called The Cab Company, then and there feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

[fol. 69] And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the

said Edward Keenan, Orville Foulke and Frank Townsend, on the said twenty-ninth day of April, in the said year of our Lord one thousand nine hundred and forty-five, at the county aforesaid, and within the jurisdiction of this Court, with force and arms, etc., being armed with an offensive weapon and with an offensive instrument, in and upon Velma Mobley feloniously did make an assault, and the said Velma Mobley in bodily fear and danger of his life then and there feloniously did put, and in the presence of and against the will of the said Velma Mobley certain moneys and property, to wit, the sum of three thousand dollars, in lawful money of the United States, of the value of three thousand dollars, of the goods and chattels, moneys and property of the said body corporate named and called the Yellow Cab Company, unlawfully did attempt to then and there feloniously and violently rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said Edward Keenan, Orville Foulke and Frank Townsend, on the twenty-ninth day of April, in the year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of the Court aforesaid with force and arms, etc., together with divers other persons, whose names are to the said Grand Inquest as yet unknown, in and upon the said Velma Mobley feloniously did make an assault, and the said Velma Mobley in bodily fear and danger of his life, then and there feloniously did put, and in [fol 70] the presence and against the will of the said Velma Mobley, the sum of three thousand dollars, in lawful money of the United States, of the value of three thousand dollars, of the goods and chattels, moneys and property of the said Velma Mobley, unlawfully did attempt to then and there feloniously and violently rob, seize, steal, take and carry away: contrary to the form of the act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid, do further present, That the said — on the — day of — in the year of our Lord one thousand nine hundred and forty—, at the county

aforesaid; and within the jurisdiction of the Court aforesaid, with force and arms, etc., in and upon the said did make an assault and the said — in bodily fear and danger of — life, did put, and — the goods and chattels moneys and property in the third count of this indictment set forth, of the goods and chattels, moneys and property of the said — then and there feloniously and violently did rob, seize, steal, take and carry away, and that the said — immediately before, and at the same time of and immediately after, the commission of the aforesaid felony and robbery, the said — feloniously did beat, strike, ill use, and do other violence to: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

And the Grand Inquest aforesaid, upon their oaths and affirmations aforesaid do further present, That the above named Defendant on the day and year aforesaid, at the County aforesaid, did commit and attempt to commit a crime of violence, to wit, the hereinabove described offense of Robbery when and while armed with a firearm, contrary to the provisions of Sec. 628, Sub Sec. b. of an Act of Assembly of said Commonwealth approved the 24th day of June, A. D. 1939, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 71] Witnesses: Det. Lane, 83; Lear, 13; Kelly, 198; Hicks, 142; Velma Mobley, 323 S. 23rd St.

Scene: 323 S. 23rd St. Bail, Townsend-fugitive rest without c. Hon. Gerald Flood, Judge; Costello, Magistrate.

[Endorsed:] No. 698. May Sessions, 1945. Commonwealth vs. Edward Keenan, Joseph Kopitsko, Walter Jankowski, Orville Foulke and Frank Townsend. *1st Count, Assault.*—Being Armed with an offensive weapon with intent to rob. *2nd Count.*—Together with other persons, with intent to rob. *3rd Count;* Attempted *Robbery.*—Being armed with an offensive weapon. *4th Count,* Attempted *Robbery.*—Together with other persons. *6th Count,* Committing a crime of violence while being armed with a firearm. June 1st, 1945. True Bill. Joseph Nuhall, Foreman. 6/5/45. The Defendants being arraigned, plead guilty. Verdict Kopitsko on bill 696. See inside.

As to Townsend, Keenan & —, Sentence, not less than (10) years nor more than (20) years each at separate and solitary confinement in the Eastern State Penitentiary, to be computed from 5-24-45 as to Keenan. Townsend from 6/5/45 pay costs.

By the Court, Harry S. McDevitt, Judge.

6/5/45

As to Foulke & Jankowski, Sentence, not less than 7½ years nor more than (15) years each at separate and solitary confinement in the Eastern State Penitentiary, to be computed from 5-24-45. Pay costs.

By the Court, H. S. McDevitt, Judge.

June 5, 1945. 453. June 15, 1945. 453.

[fol. 72] IN THE COURT OF OYER AND TERMINER AND GENERAL
JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR
THE COUNTY OF PHILADELPHIA—MAY SESSIONS, 1945

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Keenan, Orville Foulke and Frank Townsend, Joseph Kopitsko and Walter Jankowski, late of the said county, yeomen, on the twenty-ninth day of April, in the year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the certain building and garage then and there situate of a certain body corporate named and called Yellow Cab Company, unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent in and upon one Velma Mobley in said building and garage then being found, feloniously and violently to make an assault, and the said Velma Mobley in bodily fear and danger of his life then and there unlawfully and feloniously to put, and with intent then and there, from the person, in the presence of and against the will of the said Velma Mobley certain of the

goods, chattels, moneys and property of and belonging to the said body corporate named and called The Yellow Cab Company, feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 73] Witnesses: Velma Mobley, 323 S. 23rd St., Det. Lane, 83; Lear, 13; Kelly, 198; Hicks, 142. Scene: 323 S. 23rd St. Townsend-fugitive rest-without bail. c.

Hon. Gerald Flood, Judge and Costello, Magistrate.

[Endorsed:] No. 699. May Sessions, 1945. Commonwealth vs. Edward Keenan, Joseph Kopitsko, Walter Jankowski, Orville Foulke and Frank Townsend. Burglary with intent to commit a felony, to wit, to rob. June 1st, 1945. True Bill. Joseph Nuhall, Foreman, 6/5/45. The Defendants being arraigned, plead guilty. Sentence, on bills 696, 698 deferred as to Kopitsko.

June 5, 1945. 453. June 15, 1945. 453.

[fol. 74] IN THE COURT OF OYER AND TERMINER AND GENERAL
JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR
THE COUNTY OF PHILADELPHIA—MAY SESSIONS, 1945

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Edward Keenan, Orville Foulke and Frank Townsend, late of the said county, yeomen, on the thirtieth day of March, in the year of our Lord one thousand nine hundred and forty-five, at the County aforesaid, and within the jurisdiction of this Court, with force and arms, etc., the certain building and garage then and there situate of Benjamin Wang unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent in and upon one James Renfroen in said building and

garage then being found, feloniously and violently to make an assault, and the said James Renfroein in bodily fear and danger of his life then and there unlawfully and feloniously to put, and with intent then and there, from the person, in the presence of and against the will of the said James Renfroein certain of the goods, chattels, moneys and property of and belonging to the said James Renfroein and one David E. Keiser feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fols. 75-76] Witnesses: James Renfroein, 165 N. Edgewood St.; Benj. Wang; 2109 N. Redfield; David E. Keiser, 2601 Parkway; Det. Lane, 83; Lear, 13; Kelly, Hicks, 142. Scene: NE 27th & Brown St. e.

Hon. Gerald Flood, Judge and Costello, Magistrate.

[Endorsed:] No. 700. May Sessions, 1945. Commonwealth vs. Edward Keenan, Orville Foulke and Frank Townsend. Burglary with intent to commit a felony, to wit, to rob. June 1st, 1945. True Bill. Joseph Nuhall, Foreman. 6/5/45. The Defendants being arraigned, plead not guilty. Dist. Atty. sim. et isue. 10/24/45. Verdict, Not Guilty (3) Defts. County pay costs.

June 5, 1945. 453. June 15, 1945. 453. Oct. 24, 1945. 653.

[fol. 77] IN THE COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY AND QUARTER SESSIONS OF THE PEACE, FOR THE COUNTY OF PHILADELPHIA, MAY SESSIONS, 1945

BILL OF INDICTMENT

COUNTY OF PHILADELPHIA, ss:

The Grand Inquest of the Commonwealth of Pennsylvania, inquiring for the County of Philadelphia, upon their respective oaths and affirmations, do present, That Joseph Kopitsko, Edward Keenan, Charles Cain and Frank Townsend late of the said county, yeomen, on the twenty-fourth day of March, in the year of our Lord one thousand nine hundred and five at the County aforesaid, and within the

jurisdiction of this Court, with force and arms, etc., the certain building and garage then and there situate of Joseph Rizzo unlawfully, wilfully, maliciously, feloniously and burglariously did enter with intent to commit a felony, to wit, with intent in and upon one Wade Mitchell in said building and garage then being found, feloniously and violently to make an assault, and the said Wade Mitchell in bodily fear and danger of his life then and there unlawfully and feloniously to put, and with intent then and there, from the person, in the presence of and against the will of the said Wade Mitchell certain of the goods, chattels, moneys and property of and belonging to the said Wade Mitchell feloniously and violently to rob, seize, steal, take and carry away: contrary to the form of the Act of the General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

John H. Maurer, District Attorney.

[fol. 78] Witnesses: Wade Mitchell, County Prison, Holmesburg. Det. Lane, 83; Lear, Kelly, Hicks, 142. Bail — Townsend—fugitive rest-without. e. Hon. Gerald Flood, Judge and Costello, Magistrate.

[Endorsed:] No. 701. May Sessions, 1945. Commonwealth vs. Joseph Kopitsko, Edward Keenan, Charles Cain and Frank Townsend. Burglary with intent to commit a felony, to wit, to rob. June 1st, 1945. True Bill. Joseph Nuhall, Foreman. 6/5/45. The Defendants being arraigned, plead guilty. Sentence on bills 696, 698.

June 5, 1945. 453. June 15, 1945. 453.

[fol. 79]. COURT OF QUARTER SESSIONS, MAY SESSIONS, 1945

COMMONWEALTH

VS.

No. 691. C.C.D.W. w/o a license

FRANK TOWNSEND

696. A. with int. to rob. Robbery &c. Comtg. crime of
viol. while armed

701. Burg. with int. to com. felony to rob

JOSEPH KOPITSKO, EDWARD KEENAN, CHARLES CAJN and FRANK
TOWNSEND

697. A. with int. to rob. Robbery &c. Comtg. crime of viol.
while armed

700. Burg. with intent to com. fel. to rob

EDWARD KEENAN, ORVILLE FOULKE and FRANK TOWNSEND

698. A. with int. to rob. Attem. Robbery. Comtg. crime
of viol. w. armed

699. Burg. with int. to com. felony to rob

EDWARD KEENAN, JOSEPH KOPITSKO, WALTER JANKOWSKI,
ORVILLE FOULKE and FRANK TOWNSEND

702. Burglary & R.S.G.

709. C.C.D.W. w/o a license

JOSEPH KOPITSKO

703. Burglary & R.S.G.

711. C.C.D.W. w/o license

CHARLES CAIÑ and EDWARD KEENAN

704. Burglary and R.S.G.

JOSEPH KOPITSKO, EDWARD KEENAN and WALTER JANKOWSKI

705. Burglary and R.S.G.

JOSEPH KOPITSKO and EDWARD KEENAN

706. C.C.D.W. w/o License

WALTER JANKOWSKI

707. C.C.D.W. w/o License

ORVILLE FOULKE

708. C.C.D.W. w/o License

EDWARD KEENAN

[fol. 80] No. 710. Operating Motor Vehicle w/o consent
of owner

JOSEPH KOPITSKO, CHARLES CAIN and EDWARD KEENAN

Philadelphia, Pa., June 5, 1945.

Before McDevitt, P. J.

Present: Ephraim Lipschutz, Esq., For Commonwealth.
James Dessen, Esq., For Defendant, Joseph Kopitsko.

STENOGRAPHER'S TRANSCRIPT—Filed June 26, 1945

[fol. 81] COMMONWEALTH'S EVIDENCE

Mr. Dessen: Bill 698 has Kopitsko's name on the face of the indictment, but not in the body of the indictment.

The Court: We will amend it. It doesn't make much difference.

Mr. Dessen: No, sir. I thought your Honor ought to know about it.

DETECTIVE PATRICK LANE, No. 83, sworn.

By Mr. Lipschutz:

Q. What is your name?

A. Detective Lane, No. 83.

Q. Tell his Honor the number of cases in which these defendants are involved, and just go on from the first one and tell how they were involved and just what occurred?

A. On May 10, between 2 and 4 A.M. the taproom of John Corialos was broken into and five bottles of whiskey were taken from there. This was done by Keenan and Cain. On April 29—

Q. How was the taproom broken into?

A. They broke a window. Then broke a panel in the door on the inside.

Q. What did they obtain?

[fol. 82] A. Five bottles of liquor partly full.

Q. What happened to the liquor?

A. They drank it.

On April 29, 1945, 11:45 P. M., the Yellow Cab office, located at 323 South 23rd was held up at the point of gun and attempted a safe robbery in there.

Q. By whom?

A. Keenan, Kopitsko, Jankowski, Foulke and Townsend.

Q. What did they get?

A. Nothing. They attempted to take the safe, but seeing they couldn't budge it left it there.

On March 23rd—between the 23rd and the 24th a garage located at 1627 Brandywine Street, which is owned by Maurice Coyle who does acetylene welding and burning and has that equipment in the garage mounted on a truck, has his truck stolen from there by — Kopitsko is the one who took the truck out of there. Then he took that truck and met the others, met Keenan, Cain and Townsend and at 1018 East Passyunk there is a public garage that had a safe in the office. They gained admittance to that garage by talking to Wade Mitehell, the attendant, and as a result they drove the welding equipment in the garage and closed the door and endeavored to burn the safe. The equipment wouldn't function for them so they abandoned it, and they taken the attendant and forced him to the rear of the garage [fol. 83] which goes from Passyunk Avenue to 8th Street—they taken him closer to 8th Street and Cain kept him in custody in an automobile there.

Q. Was there a gun used in that case?

A. Yes, there was. Then they abandoned the welding equipment and the truck and stole a Buick Sedan out of the garage and made their escape, which they later abandoned on 9th Street in the vicinity of Lombard. That was owned by Rocco Calintonio.

March 18, between 1 and 6 A. M. they broke into a taproom. This was Keenan, Kopitsko and Townsend, broke into a taproom located at 5019 North Broad Street.

Q. How did they get into that taproom?

A. They forced the top screen in the window down and entered the taproom and located the offices in there and saw that there was a safe in there, but they didn't have any machine to move it. So, they stole—came back downtown and stole an automobile and went back up there and took the safe and its contents out of there, along with Coast Guard shirts, cigars and liquor; took the safe to the vicinity of 27th and Fairmount and broke the door open and took the contents which contained \$1150 in change and other valuable papers.

Q. Did you recover any of the property?

A. Recovered a revolver.

Q. Where did you get that revolver?

[fol. 84] A. This revolver was turned in to us by Joseph Kopitsko. He had it in his possession. This along with others was stolen from the premises, which Townsend told me he threw in the river after the rest of these defendants had been arrested.

Q. Is that revolver unloaded?

A. Yes, sir.

Q. What else happened?

A. 4-29-45, 11:15 P. M., the public garage located 628 Arch Street, owned by Sam Goldberg was entered by Keenan, Kopitsko and Jankowski, and a Chevrolet Sedan was stolen out of there that was later abandoned on the highway and recovered.

A garage located at 27th and Brown, on 3-30-45

By the Court:

Q. They pleaded not guilty on that. Don't tell us anything about that.

A. That is the sum and substance of them all.

The Court: Who do you represent?

Mr. Dessen: Kopitsko.

The Court: Do you want to ask any questions?

Mr. Dessen: Yes, sir.

[fol. 85] Cross-examination.

By Mr. Dessen:

Q. The garage on Passyunk Avenue, who were the individuals that went in and took Wade Mitchell to the rear portion of the garage?

A. I have a statement here. By Keenan: "By pre-arrangement we met Joe Kopitsko and Charley. By Cain: We walked up to the door, Eddy Keenan and I. We both had guns. Eddy had one and I had one. The door was locked. After knocking on the door a colored fellow came to the door. We asked him could we use his toilet. We walked in and pulled the guns on him, both of us. We marched him to the back of the garage and put him in a car. I sat in the rear of the garage watching him."

Q. That is by both Keenan and Cain?

A. Cain makes that statement.

WADE MITCHELL, SWORN.

By Mr. Lipschutz:

Q. Do you reside at 758 South 15th Street?

A. 813 South 17th Street.

By the Court:

Q. Were you robbed?

A. In the garage. I was stuck up.

[fol. 86] By Mr. Lipschutz:

Q. Where is this garage located?

A. 1018 Passyunk Avenue.

Q. When were you robbed?

A. I don't remember just exactly the date.

Q. Will you tell us just what happened and what if anything any of these men did to you?

A. I was working that night. I was in back simonizing a car. As I get through with the car along about 3:30 I bring the car up to the front, as usual. And I parks it and I goes in the office. I turns on the radio to see what time it was. So, I see two fellows pass a window. I didn't pay much attention. I saw them walk up to the corner and turn around and come back. Then they was headed towards the door, the front door. So, he came up there and knocked. I went out and opened the door as I would for anybody else. As I opened it he came in and said, "May I use your toilet? Where is your toilet?" I said, "There it is over there." He went in there and a little fellow came in behind him and he went in the toilet and stayed in just about long enough—about a minute or so and he came out. When he came out he had a gun like this to me. He said, "Kid, this is a stickup." He said, "Don't holler, Don't say nothing. If you do, I will blow your brains out." So, I didn't say nothing. That is when the short fellow pulled his gun out.

[fol. 87] looked like an automatic.

Q. Look at these men. Can you identify any of these men?

A. The fellow over there.

Q. Which fellows, what number?

A. With the bright shirt on.

By the Court (addressing Cain) :

Q. Stand up. What's your name?

A. Cain.

By Mr. Lipschutz (addressing Wade Mitchell) :

Q. Is that the man?

A. He reminds me of the one that was holding me in the back of the Cadillac.

Q. Who else can you recognize?

A. I don't recognize the other fellows so good.

~~JOHN CORIALOS, sworn.~~

By Mr. Lipschutz:

Q. What is your name?

A. John Corialos.

Q. Your address?

A. 109 Glendale Road, Upper Darby.

Q. Tell his Honor what happened to you and when?

A. May 10 I received a telephone call at my home about 4 A. M., 3:30 or 4 in the morning telling me to come immediately down to my place of business because the place was [fol. 88] robbed.

Q. Where is your place of business?

A. Southwest corner of 15th and Callowhill.

Q. When you arrived there what did you discover?

A. When I arrived there I found the Sergeant and a cop in the place. They had broken the door leading to the second floor. Then the panel of the door leading to the store. They went through the panel of the door in the store.

By the Court:

Q. What did you lose?

A. I lost five bottles of whiskey.

Q. Is that all?

A. Yes, sir.

By Mr. Lipschutz:

Q. You don't know who was in there?

A. No, sir.

Q. What was the value of your loss?

A. I don't know whether the bottles were full or half. I can't tell you.

[fol. 89] DETECTIVE PATRICK LANE, No. 83, recalled.

By Mr. Dessen:

Q. Detective Lane, in the holdup on Passyunk Avenue have all the persons who were involved, at least from your investigation, been arrested?

A. Yes, sir.

Mr. Dessen: I say that to your Honor, but there is another person under indictment for this same offense that hasn't been disposed of, out on bail, whom I also represent. That is the reason for my question.

Detective Lane: The man that is under arrest had his photo picked out in the gallery by this colored attendant here, and he has this disfigurement the same as Keenan has. He definitely picked him out, said that was the man, and as a result he was indicted for that job. Then later Keenan admitted his part in the job.

The Court: So the other man isn't implicated?

Detective Lane: No, sir. He is out on bail.

The Court: I don't want to try these defendants on the other bills before this jury after pleading guilty to some of them. You will have to continue those and try them before some other jury.

By the Court (addressing Townsend):

Q. Townsend, how old are you?

A. 29.

Q. You have been here before, haven't you?

[fol. 90] A. Yes, sir.

Q. 1933, larceny of automobile. 1934, larceny of produce. 1930, larceny of bicycle. 1931, entering to steal and larceny. 1938, entering to steal and larceny in Doylestown. Were you tried up there? No, no. Arrested in Doylestown. That was up on Germantown Avenue, wasn't it? You robbed a paint store.

A. No. That was my brother.

Q. You were tried for it, weren't you?

A. Yes, but I was not guilty.

Q. And 1945, this. 1936, entering to steal and larceny, 1350 Ridge Avenue. Is that your brother too?

A. No.

Q. 1937, receiving stolen goods, a saxophone. What did you want with a saxophone? Didn't hope to play in the prison band then, did you?

The Court: Ten to twenty in the Penitentiary.

By the Court (addressing Cain):

Q. Keenan, how many times have you been here?

A. Quite a few.

Q. You started as a juvenile too, didn't you?

A. Yes, sir.

Q. Larceny of automobile back in 1937. Again in 1937, suspicion of larceny of a Yellow Cab. Judge Crumlish [fol. 91] gave you a chance, put you on probation the first time. 1930, larceny of an automobile.

1938, larceny of an automobile.

1943, larceny of a revolver. Aggravated assault and battery.

1945, April, attempted burglary. That is this one.

The Court: Well, if you want to be gunmen you better get out of Philadelphia. This isn't a very happy hunting ground for you. Ten to twenty.

By the Court (addressing Cain):

Q. How many times have you been arrested?

A. Twice.

Q. What?

A. Two times.

Q. 1940, larceny of an automobile. That is once.

1938, breaking and entering. That is twice.

1939, violation of the Witkin Firearm Act. That is three times. This is the fourth, isn't it?

A. Yes.

Q. You want to be a big timer too, don't you?

A. No.

The Court: Ten to twenty.

[fol. 92] By the Court (addressing Orville Foulke):

Q. How many of these crimes were you in on?

A. One.

Q. How many times have you been here before?

A. Once.

Q. Frequenter of a disorderly taproom in 1939.

Assault and battery by fist in 1940.

Assault and battery, resisting arrest, in 1942. And this.

The Court: I guess you are not as bad as the rest of them. Seven and a half to fifteen.

By the Court (addressing Jankowski):

Q. How many times have you been here, Jankowski?

A. About three times.

Q. How many of these jobs were you in?

A. Just the one.

Q. Which one?

A. The taxicab.

Q. 1935, larceny by shoplifting and vagrancy.

1936, suspicious character.

1936, I don't know what—larceny of candy from Schulte's Cigar Store, Broad and Arch. Do you like candy?

A. Sometimes.

Q. 1937, suspicious character. 1937, larceny by sneak.

[fol. 93] Entered the restaurant of Tillie's, 1110 Sansom Street, and stole a pocketbook. Is that you?

A. Yes, sir.

Q. And this.

The Court: I don't think you are as tough as the other two. Seven and a half to fifteen.

Mr. Dessen: Kopitsko is 23 years of age, lives with his mother and is one of twelve children. He had been working prior to his arrest as a longshoreman.

The Court: I am not disposing of him today for reasons I don't care to divulge right now. Bring him up the last day of the term.

[fol. 94]

Philadelphia, Pa., June 15, 1945.

By the Court (addressing Joseph Kopitsko):

Q. How much time have you to do upstate some place?

A. Two and a half.

Q. Where?

A. Eastern State Penitentiary.

Q. From what county?

A. Lehigh.

The Court: When you get through doing your back time do two and a half to five on this.

[fols. 95-96] I hereby certify that the proceedings, evidence and charge are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this is a correct transcript of same.

Harris G. Lighty, Official Stenographer.

The foregoing record of the proceedings upon the trial of the above cause is hereby approved and directed to be filed.

Harry S. McDevitt, President Judge.

[fol. 97] SUPREME COURT OF THE UNITED STATES—OCTOBER TERM, 1947

No. 55, Misc. —

FRANK TOWNSEND, Petitioner,

vs.

C. J. BURKE, Warden

On petition for writ of Certiorari to the Supreme Court of the Commonwealth of Pennsylvania.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted and the case is ordered transferred to the appellate docket.

January 19, 1948.

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